

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

)	Case Number
JOSÉ BARRERA)	
)	
Plaintiff,)	
)	CIVIL COMPLAINT
vs.)	
)	
WELTMAN, WEINBERG & REIS)	JURY TRIAL DEMANDED
CO., L.P.A.)	
Defendant)	

COMPLAINT AND JURY DEMAND

COMES NOW, Plaintiff, José Barrera, by and through his undersigned counsel, Bruce K. Warren, Esquire and Brent F. Vullings, Esquire of Warren & Vullings, LLP, complaining of Defendant, and respectfully avers as follows:

I. INTRODUCTORY STATEMENT

1. Plaintiff, José Barrera, is an adult natural person and brings this action for actual and statutory damages and other relief against Defendant for violations to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (“FDCPA”).

II. JURISDICTION

2. Jurisdiction of this court arises under 15. U.S.C. § 1692k(d) and 28 U.S.C. §1337.

3. Venue in this District is proper in that the Defendant conducts business in the District and maintains a primary office location in this District.

III. PARTIES

4. Plaintiff, José Barrera, is an adult natural person residing at 9960 SW 37th Terrace, Miami, Florida 33165. At all times material and relevant hereto, Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a (2).

5. Defendant, Weltman, Weinberg & Reis Co., L.P.A. (“Defendant”), at all times relevant hereto, is and was a limited partnership association engaged in the business of collecting debt within the State of Delaware and the Commonwealth of Pennsylvania with a principal place of business located at 325 Chestnut Street, Suite 501, Philadelphia, PA 19106.

6. Defendant is engaged in the collection of debts from consumers using the telephone and mail. Defendant regularly attempts to collect consumer debts alleged to be due to another. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6).

IV. FACTUAL ALLEGATIONS

7. On or about March 2, 2010, Plaintiff began receiving calls from Defendant in regards to a debt allegedly owed on a Target account for approximately \$5,063.00

8. Plaintiff informed the Defendant that he had retained the services of the law firm Persels & Associates, LLC and that they should contact Persels directly in regards to this matter.

9. Defendant told the Plaintiff that they would not deal with Persels and refused to take any of their contact information.

10. On or about March 2, 2010, Persels & Associates, LLC sent a “cease and desist” letter to the Defendant informing them that they were working on behalf of the Plaintiff and that any further contact in this matter should go through their office directly.

See Exhibit “A” (letter) attached hereto.

11. Plaintiff continued to get calls throughout March and April of 2010.

12. On or around May 5, 2010, Persels & Associates, LLC sent a second “cease and desist” letter to the Defendant again reminding them that they should not be contacting the Plaintiff directly pursuant to the Fair Debt Collection Practices Act. **See Exhibit “B” (letter) attached hereto.**

13. Plaintiff continues to receive call from Defendant and their agents demanding that he work with them and make payments on this account.

14. On or about May 18, 2010, Plaintiff stated that he received three (3) calls before noon from agent of the Defendant collecting on the above referenced debt.

15. The Defendant acted in a false, deceptive, misleading and unfair manner when they engaged in conduct the natural consequence of which is to harass, oppress or abuse such person in connection with the collection of a debt.

16. The Defendant knew or should have known that their actions violated the FDCPA. Additionally, Defendant could have taken the steps necessary to bring their and their agent’s actions within compliance of the FDCPA, but neglected to do so and failed to adequately review those actions to insure compliance with the law.

17. At all times pertinent hereto, Defendant was acting by and through its agents, servants and/or employees, who were acting within the scope and course of their employment, and under the direct supervision and control of Defendant herein.

18. At all times pertinent hereto, the conduct of Defendant as well as its agents, servants and/or employees, was malicious, intentional, willful, reckless, negligent and in wanton disregard for federal and state law and the rights of the Plaintiff herein.

19. As a result of Defendant's conduct, Plaintiff has sustained actual damages, including, but not limited to, injury to Plaintiff's reputation, invasion of privacy, damage to Plaintiff's credit, out-of-pocket expenses, physical, emotional and mental pain and anguish and pecuniary loss and he will continue to suffer same for an indefinite time in the future, all to his great detriment and loss.

COUNT I - FDCPA

20. The above paragraphs are hereby incorporated herein by reference.

21. At all times relevant hereto, Defendant was attempting to collect an alleged debt which was incurred by Plaintiff for personal, family or household purposes and is a "debt" defined by 15 U.S.C. § 1692a(5).

22. The foregoing acts and omissions constitute violations of the FDCPA, including, but not limited to, violations of:

§§ 1692c(a)(2) After it knows the consumer to be represented by an attorney unless attorney consents or is unresponsive

§§ 1692c(c) After written notification that consumer refuses to pay debt, or that consumer wants collector to cease communication

§§ 1692d	Any conduct the natural consequence of which is to harass, oppress or abuse any person
§§ 1692d(5)	Caused the phone to ring or engaged any person in telephone conversations repeatedly
§§ 1692(e)	Any other false, deceptive or misleading representation or means in connection with debt collection
§§ 1692f	Any unfair or unconscionable means to collect or attempt to collect the alleged debt

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant, Weltman, Weinberg & Reis Co., L.P.A. for the following:

- a. Actual damages;
- b. Statutory damages pursuant to 15 U.S.C. § 1692k;
- c. Reasonable attorney's fees and litigation expenses, plus costs of suit;
- d. Such addition and further relief as may be appropriate or that the interests of justice require.

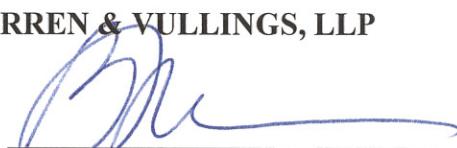
V. **JURY DEMAND**

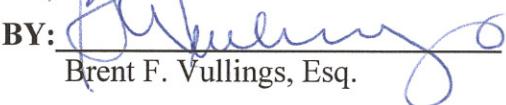
Plaintiff hereby demands a jury trial as to all issues herein.

Respectfully submitted,

WARREN & VULLINGS, LLP

Date: May 18, 2010

BY: 
Bruce K. Warren, Esq.

BY: 
Brent F. Vullings, Esq.

Warren & Vullings, LLP
1603 Rhawn Street
Philadelphia, PA 19111
215-745-9800 Fax 215-745-7880
Attorneys for Plaintiff